

EXHIBIT 20

Kapaloski, Tammy

From: Kapaloski, Tammy
Sent: Monday, March 6, 2023 5:47 PM
To: 'Jesse Salen'
Cc: Brett Foster (foster.brett@dorsey.com); patrick@mcgillco.com; Martin Bader; ebutler@parsonsbehle.com; nthomas@parsonsbehle.com
Subject: RE: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

Jesse,

As requested below, by the end of this week, please identify by bates number the responsive non-privileged documents upon which your representation number 2 during today's call was based. In addition, please identify all documents that Blendjet is withholding based on its "other objections to the requests that were propounded on Blendjet and the ESI protocol that governs this case." As you are aware, we disagree that this is a proper basis upon which to withhold documents. In any event, you are required to disclose documents you are withholding on the basis of your objections, and you have not done so to date. Finally, please let us know when Blendjet will produce a privilege log.

Regards,
Tammy

From: Jesse Salen <JSalen@sheppardmullin.com>
Sent: Monday, March 6, 2023 4:02 PM
To: Kapaloski, Tammy <kapaloski.tammy@dorsey.com>
Cc: Foster, Brett <foster.brett@dorsey.com>; nthomas@parsonsbehle.com; Martin Bader <MBader@sheppardmullin.com>; ebutler@parsonsbehle.com; patrick@mcgillco.com
Subject: RE: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Tammy,

Thank you for confirming that Blendtec is withdrawing its subpoena to Mr. McGill. Just to be clear, with respect to number 2 in your email below, BlendJet's production of non-privileged responsive documents was, of course, subject to its other objections to the requests that were propounded on BlendJet and the ESI protocol that governs this case.

Best,
Jesse

Jesse A. Salen | Partner
+1 858-720-8964 | direct
JSalen@sheppardmullin.com | [Bio](#)

SheppardMullin

12275 El Camino Real, Suite 100
San Diego, CA 92130-4092
+1 858-720-8900 | main

www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

From: kapaloski.tammy@dorsey.com <kapaloski.tammy@dorsey.com>
Sent: Monday, March 6, 2023 2:35 PM
To: Jesse Salen <JSalen@sheppardmullin.com>
Cc: foster.brett@dorsey.com; nthomas@parsonsbehle.com; Martin Bader <MBader@sheppardmullin.com>;
ebutler@parsonsbehle.com; patrick@mcgillco.com
Subject: FW: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

Jesse,

Based on your representations during today's call that: (1) Patrick McGill no longer has access to any blendjet.com email accounts, and (2) all non-privileged documents responsive to the 16 document requests in the subpoena to Patrick McGill have already been produced by Blendjet, we agree to withdraw our document subpoena and deposition subpoena to Patrick McGill at this time without prejudice. By the end of this week, please identify the documents upon which your second representation is based.

Regards,
Tammy

From: Jesse Salen <JSalen@sheppardmullin.com>
Sent: Monday, March 6, 2023 2:27 PM
To: Kapaloski, Tammy <kapaloski.tammy@dorsey.com>
Cc: Foster, Brett <foster.brett@dorsey.com>; patrick@mcgillco.com; Martin Bader <MBader@sheppardmullin.com>;
nthomas@parsonsbehle.com; ebutler@parsonsbehle.com
Subject: RE: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

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Tammy,

We are available to meet and confer at 3:00 pm MT. Please confirm that works, and if so, I will circulate a dial-in. I can respond to the substantive points in your email later.

Best regards,
Jesse

Jesse A. Salen | Partner
+1 858-720-8964 | direct
JSalen@sheppardmullin.com | [Bio](#)

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12275 El Camino Real, Suite 100
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www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

From: kapaloski.tammy@dorsey.com <kapaloski.tammy@dorsey.com>
Sent: Monday, March 6, 2023 12:23 PM
To: Jesse Salen <JSalen@sheppardmullin.com>
Cc: foster.brett@dorsey.com; patrick@mcgillco.com; Martin Bader <MBader@sheppardmullin.com>;
nthomas@parsonsbehle.com; ebutler@parsonsbehle.com
Subject: RE: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

Dear Jesse,

In light of the Court's recent decision, it is clear that the Court will not be persuaded based on a blanket claim of subject matter privilege. See ECF No. 88 at 6 ("Blendjet correctly notes that there is no blanket claims of privilege."); *id.* ("the mere fact that an attorney is involved in a communication does not render it subject to protection"). It is disingenuous for Blendjet to argue Patrick's deposition should be shielded from discovery when Blendjet issued document subpoenas to Blendtec's former and current outside counsel, subpoenaed the deposition of Grant Foster, Blendtec's counsel of record in this action, and designated Michael Monson, Blendtec's in-house counsel, as a Blendtec ESI custodian.

We only recently became aware that Patrick has acted as Blendjet's long-time counsel, including as an employee of Blendjet, when reviewing Blendjet's February 10 and February 24 email productions. We believe that Blendjet attempted to conceal this from us. On September 29, 2022, for example, Patrick represented that Blendjet "is not presently withholding any responsive documentation (or portions of any documentation) on the basis of an applicable privilege," leading us to believe that Blendjet did not have counsel prior to Sheppard Mullin being retained to represent Blendjet in connection with this matter. We now know that, despite Patrick's September 29 representation, he has served as Blendjet's counsel essentially from Blendjet's founding. We also now know that Patrick held that position, not as outside legal counsel, but as an employee or representative of Blendjet and used a Blendjet.com email address at least since February of 2019. Based on the Court's recent decision, among other things, we do not believe that the Court will quash the deposition subpoena and will instead order Patrick to sit for a deposition and assert the privilege as appropriate on a question-by-question basis.

Nonetheless, if Patrick will agree to produce all non-privileged documents responsive to the subpoena and to provide a privilege log for any documents which he claims are privileged, we will agree to hold the deposition subpoena in abeyance until after we receive those documents. If we review the documents and determine that other Blendjet witnesses can testify about the documents, we will withdraw the deposition subpoena directed to Patrick. This is a reasonable compromise as our document requests in the Patrick McGill subpoena were carefully tailored to avoid requesting privileged communications and we are quite confident that the Court will deny a motion for protective order as to the Patrick McGill subpoena. Let us know if you agree to this. If you do not agree, we are available to meet and confer any time today between 2:00 pm and 4:00 pm MST today.

Further, based on your response below, it appears that you are authorized to accept service of the subpoena on behalf of Patrick, and we will assume that to be the case unless we hear otherwise from you.

Regards,
Tammy

From: Jesse Salen <JSalen@sheppardmullin.com>

Sent: Saturday, March 4, 2023 2:29 PM

To: Kapaloski, Tammy <kapaloski.tammy@dorsey.com>

Cc: patrick@mcgillco.com; LegalTm-Blendjet-Blendtec <LegalTm-Blendjet-Blendtec@sheppardmullin.com>; NThomas@parsonsbehle.com; ebutler@parsonsbehle.com; Foster, Brett <foster.brett@dorsey.com>; LegalTm-Blendjet-Blendtec <LegalTm-Blendjet-Blendtec@sheppardmullin.com>

Subject: Re: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Dear Counsel,

BlendJet plans to file a motion for protective order on Monday, March 6, under DU-CivR 30-1(d) with respect to the deposition subpoena to Patrick McGill that was noticed on March 1. BlendJet will move for a protective order on the basis that – based on the document requests attached to the subpoena – Blendtec plans to depose Mr. McGill on subject matter that is privileged, irrelevant to any claim or defense at issue in the matter, and/or overly burdensome, among other reasons.

Please let us know your availability to confer on Monday regarding these issues.

Regards,

Jesse A. Salen | Partner
+1 858-720-8964 | direct
JSalen@sheppardmullin.com | [Bio](#)

SheppardMullin
12275 El Camino Real, Suite 100
San Diego, CA 92130-4092
+1 858-720-8900 | main
www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

On Mar 1, 2023, at 1:57 PM, kapaloski.tammy@dorsey.com wrote:

Counsel,

As we have advised you, we are authorized to accept service of Blendjet's subpoena on Grant Foster's behalf.

Please see the attached notice regarding a subpoena that we intend to serve on Patrick McGill pursuant to DUCivR 45-1. Please confirm that you will extend the same courtesy that we provided to you with respect to Grant Foster and will accept service of the subpoena on behalf of Mr. McGill. Also, please note that the dates in the attached draft subpoena are intended to be placeholders only. We, of course, are willing to work with your schedules to find a date/time that works for all involved. In addition, we will be happy to tender the required fees and mileage for attendance at the deposition in whatever form you would like as soon as the deposition date is finalized.

Regards,
Tammy

From: Patrick McGill <patrick@mcgillco.com>
Sent: Tuesday, February 28, 2023 3:13 PM
To: Foster, Brett <foster.brett@dorsey.com>; Kapaloski, Tammy <kapaloski.tammy@dorsey.com>
Cc: LegalTm-Blendjet-Blendtec <legaltm-blendjet-blendtec@sheppardmullin.com>; Nathan Thomas <nthomas@parsonsbehle.com>; Liz Butler <lbutler@parsonsbehle.com>
Subject: Blendtec v. BlendJet - Service of Subpoena re Deposition of Grant Foster

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Dear Counsel,

Please find attached, for service, a subpoena for the deposition of Grant Foster. We understand, per our previous correspondence, that you (and Dorsey & Whitney, more generally) is authorized to accept service on Mr. Foster's behalf.

As we have noted to you, the date in the attached subpoena is intended to be a placeholder, and we of course are willing to work with your schedules and that of Mr. Foster to find a date/time/place that works for all involved. We will be happy to tender the required fees and mileage for attendance at the deposition as soon as those details are finalized (please let us know how you would like those payments to be issued, and we can do so).

Sincerely,
Patrick

Patrick McGill | Attorney
Tel: (619) 974-8886
pmcgill@mcgillco.com

MCGILL & CO.

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

<2023-03-01 - Notice of Subpoena to Patrick McGill.pdf>